

**REMARKS/ARGUMENTS**

In the Office Action of June 8, 2005 (the "Office Action"), Claims 1, 3-17, 19-30, 33-44, 47-53, 55-60, 75, 76, 78, 80-87 and 103-154 were pending, and

1. Claim 151 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,807,243 issued to Vierra et al. ("Vierra et al.");
2. Claim 151 was rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,063,021 issued to Hossain et al. ("Hossain et al.");
3. Claim 103 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,865,730 issued to Fox et al. ("Fox et al."); and
4. Claims 17, 19, 20-30, 33-40, 53, 55-58, 103-105, 107-109, 112-116, and 151-154 were rejected under 35 U.S.C. §103(a), as being unpatentable over Fox et al. in view Vierra et al.
5. Claims 3-16, 43, 44, 47-52, 75, 76, 78, 80-87 and 117-150 were allowed; and
6. Claims 11, 41, 42, 59, 60, 106 and 110 were objected to.

As preliminary matters, Claim 1 is believed to have been inadvertently left out of the list of allowed claims since it was not rejected while its dependent claims 3-16 were allowed; the inclusion of Claim 11 in the list of objected to claims appears to be in error since Claim 11 was allowed along with other dependent claims of claim 1; and Claim 111 appears to have been inadvertently omitted from the list of objected to claims since it was not rejected along with other dependent claims of claim 103. Confirmation regarding the status of these claims is requested.

As another preliminary matter, Claims 124-150 were renumbered as claims 123-149 since a claim 123 was previously missing due to a typographical error.

In the specification, paragraph [05] has been amended to include the issued patent number previously left blank, and paragraphs [107], [158] and [161] have been amended to correct minor editorial problems. No new matter has been added.

1. Rejection of Claim 151 under 35 USC 102(b) in light of Viera et al.:

Claim 151 has been cancelled.

2. Rejection of Claim 151 under 35 USC 102(e) in light of Hossain et al.:

Claim 151 has been cancelled.

3. Rejection of Claim 103 under 35 USC 102(b) in light of Fox et al.:

Claim 103 has been amended to clarify and more fully claim the full scope of applicants' invention, as well as to include the limitations of objected to claim 110 "wherein the first toe portion is rotateably joined with the second toe portion by a spherical split ball assembly, and the ankle comprises a housing within which the spherical split ball assembly is disposed," and such a spherical split ball assembly and/or housing is neither taught nor suggested by Fox et al.

Accordingly, Claim 103, as amended, is believed to be patentable under 35 USC 102(b) over Fox et al. for the foregoing reasons.

4. Rejection of Claims 17, 19, 20-30, 33-40, 53, 55-58, 103-105, 107-109, 112-116, and 151-154 under 35 U.S.C. §103(a) over Fox et al. in light of Viera et al.:

Claim 17 has been amended to include the limitations of claim 23 so that the ankle comprises a housing, and "a first toe portion is rotateably joined with a second toe portion by a shell disposed within the ankle housing," and such a housing and shell are neither taught nor suggested by Fox et al. or Vierra et al., either alone or in combination with each other.

First of all, Fox et al. doesn't even show rotateably joined first and second toe portions. This point is made very clear when it is stated in Fox et al. that its feet 68, 69 and bridge 75 may be injected molded as one piece. Col. 6, lines 25-28.

On the other hand, although Vierra et al. discloses rotateably joined first and second toe portions, its arms 15, 17 are rotateably coupled to a tongue 31 by exposed pins 33 as shown in FIGS. 3A and 3B. The arms 15, 17 are not joined by a shell, nor are they even disposed in an ankle housing.

Accordingly, Claim 17, as amended, is believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al. for the foregoing reasons.

Claims 19 and 20-29 are also believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al., since they depend from claim 17, and as such, are believed to be patentable for at least the same reasons as stated in reference to claim 17. In addition, claim 22 claims balls and socket rings which are "shaped so that applying tension to the cable causes at least one ball to apply a force to at least one socket ring at an angle of at least 60 degrees in relation to the cable," and such ball and socket shapes are neither

taught nor suggested by Fox et al. or Vierra et al., alone or in combination with one another.

Claim 30 has been amended to clarify and more fully claim the full scope of applicants' invention, as well as include limitations of objected to claim 41 and its intervening claim 39, i.e., "an irrigator comprising an adjustable dispenser terminating in a spout portion," and such an adjustable dispenser is neither taught nor suggested by Fox et al. or Vierra et al., either alone or in combination with each other.

Accordingly, Claim 30, as amended, is believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al. for the foregoing reasons.

Claims 33-38 and 40 are also believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al., since they depend from claim 30, and as such, are believed to be patentable for at least the same reasons as stated in reference to claim 30.

Claim 53 has been amended to include limitations of objected to claim 59 and its intervening claim 58, i.e., a method wherein a tissue stabilizer including "a handle comprising ratchet pawls" is inserted through a cannula, and tension is applied to a cable "by rotating the handle so as to lock the cable under tension using the ratchet pawls," and such a method is neither taught nor suggested by Fox et al. or Vierra et al., either alone or in combination with each other.

Accordingly, Claim 53, as amended, is believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al. for the foregoing reasons.

Claims 55-57 are also believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al., since they depend from claim 53, and as such, are believed to be patentable for at least the same reasons as stated in reference to claim 53.

Claim 103 has been amended to clarify and more fully claim the full scope of applicants' invention, as well as include limitations of objected to claim 110, i.e., "wherein the first toe portion is rotateably joined with the second toe portion by a spherical split ball assembly, and the ankle comprises a housing within which the spherical split ball assembly is disposed," and such a spherical split ball assembly or ankle housing is neither taught nor suggested by Fox et al. or Vierra et al., either alone or in combination with each other.

Accordingly, Claim 103, as amended, is believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al. for the foregoing reasons.

Claims 104-105, 107-109 and 112-116 are also believed to be patentable under 35 USC 103(a) over Fox et al. in light of Vierra et al., since they depend from claim 103, and as such, are believed to be patentable for at least the same reasons as stated in reference to claim 103.

Claims 151-154 have been cancelled.

5. Objections to Claims 11, 41, 42, 59, 60, 106 and 110:

As previously noted, the objection to Claim 11 is believed to be in error since claim 11 was also included in the list of allowed claims.

Claim 41 and its intervening claim 39 have been cancelled, and their limitations added to claim 30.

Claim 42 depends from claim 30, and should no longer be objected to with the amendment to claim 30.

Claim 59 and its intervening claim 58 have been cancelled, and their limitations added to claim 53.

Claim 60 depends from claim 53, and should no longer be objected to with the amendment to claim 53.

Claim 106 depends from claim 103, and should no longer be objected to with the amendment to claim 103.

Claim 110 has been cancelled, and its limitations added to claim 103.

### **Conclusion**

Claims 1, 3-17, 19-22, 24-30, 33-38, 40, 42-44, 47-53, 55-57, 60, 75, 76, 78, 80-87, 103-109, 111-122, and renumbered claims 123-149 are pending in the application. Claims 2, 18, 23, 31-32, 39, 41, 45-46, 54, 58-59, 61-74, 77, 79, 88-102, 110, and 151-154 have been cancelled. Claims 3-16, 43, 44, 47-52, 75, 76, 78, 80-87, 117-122, and renumbered Claims 123-149 have been allowed, and presumably, Claim 1 should have been allowed. Objected to Claims 41, 59 and 110 have been cancelled along with any intervening claims, and their limitations added to their base Claims 30, 53 and 103, respectively.

Reconsideration of any and all rejections and objections to pending claims is respectfully requested, and an early notice of their allowability earnestly solicited.

If the Examiner believes a telephone conference would expedite prosecution of this application, applicants respectfully request the Examiner to contact the undersigned at the telephone number listed below. Applicant believes no fees are due. However, if any fees should be due please charge deposit account 503404.

Respectfully submitted,

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